

REMARKS

Claims 1-6 have been amended. In particular, claim 1 has been amended to recite “foam and non-foam layers.” Applicants submit that support for this Amendment can be found on page 6, lines 14-19, Applicants’ examples, and claims 5-6.

Claims 1-6 are pending in the application.

Claims 1-6 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Claims 1-6 have also been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

The Examiner asserts that the clause “wherein the shear stress at the interface of each layer is 5000 Pa or higher and not higher than 50000 Pa” is not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. The Examiner asserts that the clause describes where the required shear stress occurs but the disclosure as filed does not disclose the point in time during the process the required shear stress occurs. Further, the Examiner asserts that the interface of or between each layer would exist for as long as the multi-layer foam sheet exists, potentially long after the instantly claimed process is completed.

Additionally, the Examiner asserts that the “wherein” clause is indefinite because one of ordinary skill in the art would be unable to determine the metes and bounds of the claims because there is no recited point in time during the process at which the required range of shear stresses at the interface of each layer is to be met.

Applicants respectfully traverse the rejections. Applicants submit that shear stress is related to the properties of the material and the processing parameters of die shape and extrusion

output of each layer and is calculated using Equation 1 on page 3 of the specification. See the bottom line of page 3 to line 4 of page 4. Applicants submit that the shear stress occurs at the time the multi-layer sheet is extruded through a die. In view of the knowledge in the art and the guidance of Applicants' specification, Applicants respectfully submit that one of ordinary skill in the art would be able to make and use Applicants' claimed invention and that Applicants invention, as claimed, is clear and definite. Therefore, Applicants respectfully request that the Examiner reconsider and withdraw the § 112 first and second paragraph rejections.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER


Jennifer R. Leach
Registration No. 54,257

Date: July 19, 2004